

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WASHINGTON

MARSHA ROARK, a Washington  
resident.

Plaintiff,

v.

BRIDGESTONE AMERICAS TIRE  
OPERATIONS, L.L.C., a Foreign Liability  
Corporation, SHANDONG YONGSHENG  
RUBBER CO., LTD, a Foreign Corporation  
BRIDGESTONE RETAIL OPERATIONS,  
L.L.C., a Foreign Liability Corporation,,  
DEL-NAT TIRE CORPORATION, A  
Foreign Corporation; DEL-NAT IMPORT  
EXPORT COMPANY, A Foreign  
Corporation; TBC CORPORATION d/b/a  
TBC-TIRE AND BATTERY CORP., A  
FOREIGN CORPORATION and ITG  
VOMA CORP., A Foreign Corporation,

Defendants.

No. 2:20-CV-0053-TOR

PROTECTIVE ORDER

**THIS MATTER** came on for hearing without oral argument before the  
above-entitled Court on the Stipulated Motion for Protective Order (ECF No. 43)  
presented to the Court, through counsel for Plaintiff, Marsha Roark, (“Plaintiff”),

1 Bridgestone Americas Tire Operations, LLC (“BATO”), Shandong Yongsheng  
2 Rubber Co., LTD. (“Shandong”), and ITG Voma Corp. (“ITG Voma). After  
3 reviewing the files and records herein, and the Court having been fully advised,  
4 the Court finds as follow:

5 **WHEREAS**, the Parties, having stipulated to and having moved the Court  
6 to enter this Order to expedite the production of discovery materials, facilitate the  
7 prompt resolution of disputes over the confidentiality of discovery materials,  
8 protect against disclosure of confidential and proprietary information; and

9 **WHEREAS**, the Court finds that good cause exists for the entry of this  
10 Order; and therefore,

11 **IT IS HEREBY ORDERED** that the following rules and procedures shall  
12 govern the disclosure of Confidential Information contained or referred to in  
13 documents produced by the Parties or by non-parties in the course of discovery and  
14 trial of this action, as well as transcripts and documents marked as exhibits or  
15 otherwise utilized in depositions, hearings, or trial of this action that contain or  
16 refer to Confidential Information.

17 1. This Order does not confer blanket protection on all disclosures or  
18 discovery. This Order affords protection only to the information or items that are  
19 entitled to be treated as confidential under the terms of this Order. Furthermore,  
20 neither this Order nor any confidentiality designation made pursuant to it  
21 constitutes a ruling by this Court that any specific information is, in fact,  
22 confidential. This Order is intended to facilitate the prompt production of

1 discovery materials. No determination is being made by the Court at this time that  
2 any material designated by any party or third-party as Confidential Information for  
3 protection under this Order is confidential or entitled to protection. Such issues  
4 are reserved and will be ruled upon separately from this Order and following  
5 applicable notice and hearing provisions. This Order merely provides a framework  
6 for the parties to claim such materials as confidential to preserve their right to seek  
7 protection of these documents as confidential and/or propriety information, and to  
8 preserve such issues for ruling until each party may prepare their appropriate  
9 arguments on these issues.

10 2. Any party or non-party may designate as “CONFIDENTIAL” or  
11 “SUBJECT TO CONFIDENTIALITY ORDER”:

- 12 a. any document, including photographs, drawings, films, videotapes,  
13 or other writings, which contain 1) trade secrets; 2) unpublished  
14 financial data, research, technological or business developments; 3)  
15 confidential business information; and 4) other similar commercially  
16 sensitive, or proprietary information of a non-public nature; which the  
17 Designating party believes is not generally known to its competitors  
18 and the release of which would cause it competitive harm, or personal  
19 employment or financial information; individually identifiable health  
20 information as defined by the Health Insurance Portability and  
21 Accountability Act of 1996 not heretofore publicly disclosed, or other  
22 information for which a good-faith claim for protection can be made

1 under the Federal Rules of Civil Procedure or other applicable law,  
2 including the laws of a foreign sovereign (collectively, “Confidential  
3 Information”).

4 b. any transcripts of testimony from trials or depositions or affidavits,  
5 and any documents marked as exhibits or otherwise utilized in  
6 depositions, hearings, or trial of this action that contain or refer to  
7 Confidential Information that the party or non-party may be in good  
8 faith claim a need for protection under the terms of this Order.

9 3. To designate Confidential Information for protection under this  
10 Order, the party or non-party seeking the protection of this Order (the “Designating  
11 Party”) shall:

12 a. mark each page of a document containing Confidential Information  
13 as "CONFIDENTIAL" or "SUBJECT TO CONFIDENTIALITY  
14 ORDER” (the “Confidential Designation”). If the document is  
15 produced in native format, such as an excel spread sheet, then the  
16 party shall take reasonable steps to mark the file with the Confidential  
17 Designation or provide the receiving parties with written notice that  
18 it is to be treated as confidential under this Order; and

19 b. state on the record during a deposition or provide written notice to  
20 the parties and the court reporter within 15 calendar days following  
21 receipt of the deposition transcript the specific pages and lines of the  
22 transcript that are to be treated as Confidential Information, in which

1 case all counsel receiving such notice shall mark the copies or  
2 portions of the designated transcript in their possession or under  
3 their control as directed by the Designating Party. During the 15-  
4 calendar day review period, deposition transcripts and any video  
5 recordings of a deposition shall be treated as Confidential  
6 Information unless the parties waive this requirement in writing.  
7 Further, any Confidential Designations made to a deposition  
8 transcript shall also apply to an accompanying video recording.

9 4. The Designating Party shall have the right to exclude from the  
10 deposition all persons other than those persons qualified to receive Confidential  
11 Information pursuant to paragraph 7 of this Order, during the period when a  
12 witness is being examined regarding Confidential Information.

13 5. The burden of proving the confidential nature of designated  
14 information is on the Designating Party. Prior to designating any material as  
15 “Confidential Information” and subject to this Protective Order, the Designating  
16 Party must make a bona fide determination that the material is, in fact, confidential,  
17 the dissemination of which would significantly damage the Designating Party’s  
18 competitive position or impact the privacy rights of third-parties. The designation  
19 of material for protection under this Order shall constitute a representation to the  
20 Court that the Designating Party and its counsel believe in good faith that the  
21 information constitutes Confidential Information.  
22

1           6.     In the event that any party disagrees with any designation made under  
2 this Order, then that that party may bring it to the attention of the designating party  
3 within a reasonable time after discovering their disagreement. The parties shall  
4 first try in good faith to resolve the disagreement informally. If the dispute cannot  
5 be resolved and the receiving party concludes in good faith that the materials have  
6 been improperly classified, the receiving party shall notify the designating party in  
7 writing by facsimile or by electronic transmission of its objection but shall continue  
8 to maintain the documents or other information as confidential for fifteen (15) days  
9 after such notice. The Designating Party shall have the right to move the Court for  
10 a Protective Order in order to retain the designated status of such materials. If the  
11 Designating Party files such a motion within the fifteen-day period, the receiving  
12 party shall continue to retain the materials as CONFIDENTIAL, consistent with  
13 the Designating Party's designation, until the Court has ruled on the Designating  
14 Party's motion or the time to appeal has elapsed.

15           7.     Confidential Information marked or otherwise appropriately marked  
16 with Confidential Designation shall be made available only to the following  
17 persons when reasonably required in connection with their duties relating to this  
18 action:

- 19                   a.     Attorneys of record in this action and their partners or associate  
20                                 attorneys;
- 21                   b.     Any persons regularly employed by such attorneys or their  
22                                 firms,         (including contract staff, copying services or other

1 administrative support) when working on this case under the direct  
2 supervision of partners or associates of these firms;

3 c. Any expert, consultant, or similar person who has been  
4 consulted, or who has been retained by counsel to provide assistance, expert  
5 advice, technical consultation, or testimony in this action; and the employees  
6 of such experts, consultants or similar persons when working on this case  
7 under the direct supervision of these persons; provided that no disclosure  
8 shall be made to any expert or consultant who is presently employed, either  
9 full time or as a consultant, by a competitor of BATO;

10 d. The Court, Courthouse personnel, witnesses, and the jury, as  
11 required at any hearing or at the trial of this case;

12 e. Court reporters or other official personnel reasonably required  
13 for the preparation of transcripts of testimony or hearings in this case; and

14 f. The named Parties in this litigation; and

15 g. Any other person under such terms and conditions as the Parties  
16 may mutually agree, in writing, or as the Court may hereafter direct by  
17 further order.

18 8. Confidential Information subject to protection under this Order shall  
19 be used solely in connection with the preparation and trial of this lawsuit or as  
20 otherwise provided herein.

21 9. No Confidential Information subject to protection under this Order  
22 shall be made or furnished or disclosed to any person, firm, or corporation except

1 those identified in this Order, without the prior written consent of the party to  
2 whom the records apply or its attorneys of record in this case.

3 10. Before disclosing any Confidential Information subject to protection  
4 under this Order to the persons listed in 7(c) or (g) above, counsel shall first obtain  
5 from each such person a signed "WRITTEN ASSURANCE" in the form attached  
6 hereto as Exhibit "A." Counsel shall maintain a list of all such recipients of  
7 Confidential Information to whom this paragraph applies and the original of every  
8 "WRITTEN ASSURANCE" required pursuant to this paragraph. At the  
9 conclusion of the litigations, the parties shall forward to counsel for the Designated  
10 Party each and every signed "WRITTEN ASSURANCE" and a list of all recipients  
11 of Confidential Information; however, with regarding to consultants(s) not  
12 identified as expert(s) in this matter, counsel need only provide a copy of the  
13 "WRITTEN ASSURANCE" redacted to remove any reference to the identity of  
14 the consultant(s).

15 11. Confidential Information may be disclosed to deponents during the  
16 course of their preparation for, and the taking of, their depositions in this case,  
17 provided that before disclosing Confidential Information to a deponent, the  
18 attorney making the disclosure shall advise the deponent that, pursuant to this  
19 Order, the deponent may not divulge any Confidential Information to any other  
20 person, firm or corporation, except as otherwise provided in this Order. The  
21 deponent shall then be required to view the Order and agree to be bound by its  
22 terms by executing a copy of Exhibit A. If the Deponent is first shown Confidential



1 Information during a deposition, it shall be sufficient for the deponent to signify  
2 on the record the deponent's agreement to be bound by the terms of this Order.

3 12. If a party wishes to use any Confidential Information, or any papers  
4 containing or revealing the nature of the contents of such Confidential Information,  
5 in any pleading or document filed with the Court in this case, that party shall file a  
6 motion seeking leave to file the Confidential Information under seal. References  
7 to information noted with the CONFIDENTIAL Designation in motions, briefs, or  
8 other pleadings that do not reveal the nature of the Confidential Information need  
9 not be sealed.

10 13. Nothing in this Order shall:

11 a. Limit any party in the introduction of Confidential Information  
12 into evidence, subject to the Designating Party's right to seek further  
13 protection from the Court;

14 b. Preclude a party from seeking such additional protection with  
15 regard to the confidentiality of documents or information as that party may  
16 deem appropriate; nor

17 c. Prevent a party from objecting to discovery that it believes to  
18 be improper, including objections based upon the highly sensitive  
19 confidential or proprietary nature of the documents or information  
20 requested.

21 d. This Order shall not apply to the disclosure of Confidential  
22 Information or the information contained therein at the time of trial, through

1 the receipt of protected documents into evidence or through the testimony  
2 of witnesses. The closure of trial proceedings and sealing the record of a  
3 trial involve considerations not presently before the Court. These issues  
4 may be taken up as a separate matter upon the motion to any party at the  
5 time of trial or evidentiary hearing.

6 14. The inadvertent production of any Confidential Information during  
7 discovery in this action without marking it with a Confidential Designation shall  
8 be without prejudice to any claim that such material is Confidential Information  
9 protected by this Order, and no party shall be held to have waived any rights with  
10 respect to such inadvertent production. Likewise, the inadvertent production of  
11 documents or information that is protected by the attorney-client privilege, work  
12 product doctrine or any other legally cognizable privilege or evidentiary  
13 protection, shall be without prejudice to any claim that such material is  
14 Confidential Information protected by this Order, and no party shall be held to have  
15 waived any rights with respect to such inadvertent production.

16 15. Pursuant to Federal Rule of Evidence and Federal Rule of Civil  
17 Procedure, the attorney-client privilege, work-product protection, or other legally  
18 cognizable privilege or protection is not waived by unintentional disclosure or  
19 production in this case. Upon written notice of an unintentional production by the  
20 producing party or oral notice if notice must be delivered at a deposition or hearing,  
21 the receiving party must promptly return, sequester, or destroy the specified  
22 document and any hard copies the receiving party has and may not use or disclose

1 the information until the privilege claim has been resolved. To the extent that the  
2 producing party insists on the return or destruction of electronic copies, rather than  
3 disabling the documents from further use or otherwise rendering them inaccessible  
4 to the receiving party, the producing party shall bear the costs of the return or  
5 destruction of such electronic copies. To the extent that the information contained  
6 in a document subject to a claim has already been used in or described in other  
7 documents generated or maintained by the receiving party, then the receiving party  
8 will sequester and/or redact such documents until the claim has been resolved. If  
9 the receiving party discloses the specified information before being notified of its  
10 inadvertent production, it must take reasonable steps to retrieve the information  
11 until the claim is resolved. Return or destruction of the privileged documents,  
12 things, material, or information by the receiving party shall not constitute an  
13 admission or concession, or permit an inference that the returned documents,  
14 things, materials or information are, in fact, properly subject to a claim of any  
15 privilege or work product protection, nor shall it preclude the receiving party from  
16 moving the Court for an order that such documents, things, materials, or  
17 information have been improperly designated as privileged or should be produced  
18 for reasons other than waiver caused by the inadvertent disclosure.


19 16. Final termination of this action, including exhaustion of appellate  
20 remedies, shall not terminate the limitations on use and disclosure of Confidential  
21 Information imposed by this Order. Within thirty (30) days of final termination of  
22 this case, counsel of record for each party in this case, and any person who has

1 received copies of Confidential Information in the course of this litigation, shall  
2 destroy such records and provide written certification that all copies have been  
3 destroyed.

4 17. If any person receiving Confidential Information covered by this  
5 Order is served with a subpoena, order, interrogatory, or document or civil  
6 investigation demand (collectively, "Third-party Document Request") issued in  
7 any action, investigation, or proceeding, and such Third-Party Document Request  
8 seeks material that was produced or designated as Confidential Material by  
9 someone other than the receiving party, the receiving party shall give prompt  
10 written notice to the Designating Party within five business days following receipt  
11 of the Third-Party Document Request. The burden of opposing or seeking an order  
12 protecting the confidentiality of material subject to the Third-Party Document  
13 Request shall fall on the Designating Party.

14 18. The Court retains jurisdiction to enforce this Order. Any violation of  
15 this Order by any party subject to its terms as described above may be sanctionable  
16 as contempt of the Court.

17 DATED February 24, 2021.

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19   
20 THOMAS O. RICE  
21 United States District Judge  
22